



State of California  
Franchise Tax Board

# Workshop Supplement

[ FTB Pub. 1585 ]

**California  
Head of Household  
Filing Status**

hoh

Supplement to FTB Pub. 1540

## Introduction

This publication serves as a supplement to Franchise Tax Board's (FTB) Pub. 1540, *California Head of Household Filing Status*. The primary audiences are tax preparers and other tax professionals who attend our head of household (HOH) workshops. This supplemental information addresses a number of HOH topics including:

- Registered domestic partners.
- The audit process.
- General rules for claiming the filing status.
- Who is a qualifying person?
- Legal issues.
- The most common denial reasons.
- Case studies.
- Where to obtain additional information about filing as a head of household.

We want to hear your concerns and suggestions about clarifying HOH tax law and how to improve our service to you. Please complete the evaluation our workshop staff provides to you. We use your comments and suggestions as valuable tools to improve the quality of our workshops and to provide useful information to the taxpayers of California.

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## Registered Domestic Partners (RDPs)

Effective for the taxable years beginning on or after January 1, 2007, RDPs **must file** their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. However, RDPs may file using the HOH filing status if they are in the process of ending their relationship and they meet the following requirements to be considered not in a registered domestic partnership:

- Their RDP did not live in their home during the last six months of the tax year.
- They paid more than half the cost of keeping up their home for the tax year.
- Their home was the main home for their birth child, stepchild, adopted child, or eligible foster child for more than half the year.
- They were entitled to a Dependent Exemption Credit for their child.

An RDP does not need to terminate the registered domestic partnership to qualify for HOH filing status. Because a married individual can qualify for HOH filing status without terminating the marriage, an RDP can qualify for HOH filing status without terminating the registered domestic partnership.

Married individuals qualify for HOH filing status if they meet the requirements to be considered unmarried. RDPs qualify for HOH filing status if they meet the same requirements to be considered not in a registered domestic partnership.

Any reference to a spouse in this publication also pertains to an RDP under California law. For more information on RDPs, get FTB Pub. 737, *Tax Information for Registered Domestic Partners*.

# HOH Audit Process

The HOH audit generally begins in the summer following the tax year in question. The audit process follows these general steps:

- **Audit Selection** – Each year, approximately two million individual taxpayers file their tax returns using the HOH filing status. FTB generally examines between 200,000 and 300,000 of these returns to determine if the taxpayers qualify to use the filing status. We select electronic and paper returns using the same predetermined criteria for all returns.
- **Electronic Filers** – We examine the tax returns of HOH filers who file electronically and include a completed electronic questionnaire early in the audit cycle. Most electronic filers never receive correspondence from us. We only contact electronic filers when the electronic audit questionnaires (FTB 4803e) they fill out contain incomplete or conflicting information, or their answers indicate that they do not qualify.
- **First Audit Letter** – We send an eight-page audit letter to taxpayers who file a paper return. The audit letter contains a two-page questionnaire, a summary of the HOH qualifications, and a list of frequently asked questions. In the questionnaire, we ask the taxpayer to submit specific information to us within 30 days.
- **Second Audit Letter** – If we do not receive a response to the first letter, we send a second letter to the taxpayer. The taxpayer has 20 days to respond to the second audit letter.
- **HOH Audit Web Response** – Taxpayers may complete the audit questionnaire online. Rather than respond by mail or fax, taxpayers complete an electronic audit questionnaire on our website. Access to the electronic audit questionnaire requires the taxpayer to enter his or her social security number and an FTB ID number that we provide on the first page of the audit letter. Once taxpayers complete the audit questionnaire online, it is not necessary to mail or fax a paper copy to us.
- **Incomplete or Conflicting Information Received** – If we receive incomplete or conflicting information, we either contact the taxpayer by telephone or mail them a letter to ask for clarification.
- **Acceptance Letters** – We send Head of Household Filing Status Acceptance Letters to taxpayers who respond to the audit letter and qualify for the audited year. We require no further action by the taxpayer.
- **Notice of Proposed Assessment** – We issue a Notice of Proposed Assessment (NPA) to taxpayers under the following conditions:
  - Information provided on the audit questionnaire does not meet HOH qualification requirements.
  - We receive no reply to our audit letters. We impose a 25 percent failure to furnish information penalty on these “no reply” NPAs. However, along with the NPA, we also provide taxpayers with an additional copy of the HOH audit questionnaire. If the taxpayer completes and returns the audit questionnaire to us within the normal protest period (60 days) and qualifies, we will withdraw the notice.

## General Rules for HOH

In order for taxpayers to qualify for HOH filing status, the following general requirements apply:

- The taxpayer must be either unmarried and not an RDP, or meet the requirements to be considered unmarried or considered not in a registered domestic partnership as of the last day of the year.
- The taxpayer must not be a nonresident alien at any time during the year.
- The taxpayer must pay more than half the costs of keeping up a home during the year.
- The taxpayer must provide the main home for himself or herself and a qualifying person who is related to the taxpayer and lives with the taxpayer for more than half the year. (Note: A taxpayer's parent/stepparent does not need to live in the taxpayer's home, but the taxpayer must pay more than half the cost of keeping up the home in which the parent/stepparent lived.)
- The qualifying person must be the taxpayer's qualifying child or qualifying relative.
- The taxpayer must be entitled to a Dependent Exemption Credit for the qualifying child or qualifying relative. However, a taxpayer who is unmarried and not an RDP does not need to be entitled to a Dependent Exemption Credit for a qualifying child who is also unmarried and not an RDP.

## Who is a Qualifying Person?

Beginning in 2005, the federal Working Families Tax Relief Act of 2004 redefined the requirements for a qualifying person. A qualifying person is one who meets the requirements of a qualifying child or a qualifying relative as shown in the table below. The qualifying child or qualifying relative must also meet the Dependent Exemption Credit tests (see Dependent Exemption Credit under HOH Legal Issues). However, a taxpayer who is unmarried and not an RDP does not need to be entitled to a Dependent Exemption Credit for a qualifying child who is also unmarried and not an RDP.

Qualifying Child	Qualifying Relative
<b>Relationship Test:</b> The qualifying person must be the taxpayer's birth child, grandchild, stepchild, adopted child, eligible foster child, sibling, stepsibling, half sibling, or a descendant of such an individual. <sup>1</sup>	<b>Relationship Test:</b> The qualifying person must be the taxpayer's birth child, stepchild, adopted child, or a descendant of such an individual; or the taxpayer's sibling, half sibling, stepsibling, parent, grandparent, stepparent, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law, or a blood-related aunt, uncle, nephew, or niece. <sup>1</sup>
<b>Age Test:</b> The qualifying person must be under age 19 or a full-time student under age 24. <sup>2</sup>	<b>Gross Income Test:</b> The qualifying person's gross income must be less than the amount of the federal exemption for the tax year in question.
<b>Support Test:</b> The qualifying person must not provide more than half of his or her own support.	<b>Support Test:</b> The taxpayer must provide more than half the qualifying person's support.
<b>Special Test for Qualifying Child of More Than One Person:</b> If the child meets the requirements to be a qualifying child of more than one taxpayer, the child will be treated as the qualifying child of the taxpayer who meets the tie-breaking rules (see HOH Legal Issues on the next page).	<b>Not a Qualifying Child Test:</b> The qualifying person cannot be a qualifying child of the taxpayer or any other taxpayer.
<b>Time in the Home Test:</b> The qualifying child must live with the taxpayer for more than half the year.	

<sup>1</sup> Taxpayers who are married or an RDP only qualify for the HOH filing status if they meet the requirements to be considered unmarried or considered not in a registered domestic partnership. See the complete definition for considered unmarried or considered not in a registered domestic partnership in FTB Pub. 1540. If the taxpayer is considered unmarried or considered not in a registered domestic partnership for HOH purposes, his or her qualifying person can only be a birth child, stepchild, adopted child, or an eligible foster child.

<sup>2</sup> A qualifying person who is permanently and totally disabled at any time during the year is deemed to have met the age requirements to be a qualifying child.

# HOH LEGAL ISSUES

## Counting Qualifying Time

### Taxpayer Unmarried and not an RDP All Year

A taxpayer who was not married and not an RDP at any time during the year can count all of the days the taxpayer's qualifying person lived with the taxpayer in the taxpayer's home as days the taxpayer provided the main home for his or her qualifying person.

### Taxpayer Unmarried and not an RDP by the End of the Year

A taxpayer who was married or an RDP during part of the year, but divorced, legally separated, or their registered domestic partnership was legally terminated by the end of the year, must make a special calculation to determine how many days their home was the main home for their child. Add together the following:

- Half of the days the taxpayer and the child lived in the taxpayer's home with the spouse/RDP (ex-spouse/ex-RDP).
- All of the days the taxpayer and the child lived in the taxpayer's home without the spouse/RDP (ex-spouse/ex-RDP).

(See the California State Board of Equalization's opinion in the *Appeal of William Tierney*, 97-SBE-006-A, September 10, 1997.)

### Taxpayer Married or an RDP

A taxpayer who meets the requirements to be considered unmarried or considered not in a registered domestic partnership and lives with his or her spouse/RDP at any time during the **first** six months of the year must also apply the above *Tierney* rules to determine the number of days the taxpayer's home was his or her child's main home. However, if a taxpayer is married or an RDP as of the last day of the year and lives with his or her spouse/RDP at any time during the **last** six months of the year, he or she does not qualify for HOH filing status.

(See the California State Board of Equalization's opinion in the *Appeal of Barbara Godek*, 98-SBE-006, November 19, 1998.)

### Dependent Exemption Credit

Taxpayers qualify for a dependent exemption credit for a qualifying person if **both of the following** apply:

1. The taxpayer's qualifying person meets the requirements to be either a qualifying child or a qualifying relative.
2. The taxpayer's qualifying person meets the joint return and citizenship tests below.

However, a taxpayer cannot claim any dependents if the taxpayer could be claimed as a dependent by another taxpayer.

- **Joint return test.** Even if the taxpayer's qualifying person meets the requirements to be a qualifying child or qualifying relative, the taxpayer is generally not allowed an exemption if the qualifying person files a joint income tax return. However, a taxpayer may take an exemption for a qualifying person who files a joint income tax return, if all of the following apply:



- Neither the taxpayer's qualifying person nor their spouse/RDP would have a federal or state tax liability if they filed separate returns, and
- The taxpayer's qualifying person and their spouse/RDP only filed a joint income tax return to get a refund of income tax withheld.
- **Citizenship test.** For some part of the calendar year in which the taxpayer's tax year begins, the qualifying child or qualifying relative must be a U.S. citizen or national, or a resident of the U.S., Canada, or Mexico.

### **Eligible Foster Child**

Federal laws changed for foster children beginning with the 2005 tax year. To qualify as an eligible foster child, a child must be placed with the taxpayer by an authorized placement agency or by a judgment, decree, or other order of a court of competent jurisdiction. Generally, formal placement ends when the child reaches the age of 18.

### **Joint Custody**

A taxpayer who shares joint physical custody of a child does not automatically qualify for HOH filing status. The taxpayer and the child must live together in the taxpayer's home as their main home for more than half the year.

To compute the number of days a parent's home serves as the child's main home (a day is from midnight to midnight), the parent counts any day in which the parent maintained physical custody of the child for the greater portion of the day. One parent maintains physical custody until the other parent assumes physical custody. For example, if one parent drops the child off at school and the other parent picks the child up after school, the parent who dropped the child off counts the time the child is in school as time that parent provided the main home.

If, under a joint custody arrangement, a child lives with the custodial parent for more than half the year, the noncustodial parent may be entitled to claim the Joint Custody Head of Household Credit. The noncustodial parent may claim the Joint Custody Head of Household Credit if he or she:

- Is unmarried and not an RDP on the last day of the tax year; or files a separate return and lives apart from his or her spouse/RDP for the entire year.
- Maintains his or her home as the main home for a birth child, stepchild, adopted child, or grandchild.
- Lives with the child for at least 146 days, but not more than 219 days of the tax year.
- Possesses one of the following documents that indicates the taxpayer's home was the child's main home for the above period:
  - A decree of dissolution of marriage or registered domestic partnership.
  - A decree of legal separation.
  - A written agreement entered into after a divorce, dissolution of registered domestic partnership, or legal separation proceeding began, but before the final decree was issued.

**Note:** In order for a child who is married or an RDP to qualify a taxpayer for the Joint Custody Head of Household Credit, the taxpayer must be entitled to a Dependent Exemption Credit for the child. See the instructions in Form 540, *California Resident Income Tax Return*, to claim this credit.

### **Multiple Families Occupying the Same Dwelling**

If two or more families occupy the same dwelling, one taxpayer from each family may still meet the eligibility requirements for the HOH filing status. In order for each family to be treated as a separate household, they must keep their finances separate and not contribute to the support of the other family.

As long as the taxpayers meet these and the other HOH filing status requirements, more than one person in a dwelling may be eligible to file as head of household.

### **Spouses/RDPs with Separate Sleeping Quarters**

Even if they sleep in separate quarters, spouses/RDPs who continue to live in the same dwelling are considered members of the same household. Spouses/RDPs that live together in such circumstances during the last six months of the year are not considered unmarried or considered not in a registered domestic partnership for HOH purposes. Taxpayers who are married or an RDP who do not meet the requirements to be considered unmarried or considered not in a registered domestic partnership do not qualify for the HOH filing status.

### **Special Test for Qualifying Child of More than one Person**

If two or more taxpayers, including a parent, claim the same person as a qualifying child for a particular tax year, the person shall be treated as the qualifying child of the taxpayer who is:

- A parent of the person, or
- The person with the highest federal adjusted gross income, if none of the taxpayers is the child's parent.

If both parents claim the same child as a qualifying child, we treat the child as the qualifying child of:

- The parent with whom the child lived for the greater amount of time during the year, or
- The parent with the highest federal adjusted gross income, if the child lived with both parents for the same amount of time.

These rules only apply to allow the taxpayer to claim the Dependent Exemption Credit for the child. Neither taxpayer qualifies for HOH filing status if the child did not live with the taxpayer for more than half the year.

## Common Denial Reasons

### **The qualifying person does not meet the gross income test.**

The number one reason HOH filing status is denied is because the qualifying person did not meet the gross income test to be the taxpayer's qualifying relative. A qualifying relative's gross income must be less than the federal exemption credit amount for that year.

2006 – \$3,300; 2007 – \$3,400; 2008 - \$3,500. (In general, social security benefits and welfare payments such as Temporary Assistance to Needy Families (TANF, formerly AFDC) are not included in gross income.)

### **The taxpayer lived with his or her spouse/RDP during the last six months of the year.**

To qualify for HOH filing status, a taxpayer who is married or an RDP as of the last day of the year must meet the requirements to be considered unmarried or considered not in a registered domestic partnership. Many taxpayers who are married or an RDP as of December 31 do not meet these requirements because they lived with their spouse/RDP during all or part of the last six months of the year.

**Note:** A **petition** for divorce, legal separation, or dissolution of registered domestic partnership is not the same as having a final decree. Until the taxpayer receives a final decree, or files a Notice of Termination of Domestic Partnership that was effective by the last day of the year, the taxpayer remains married or an RDP.

A taxpayer who is married or an RDP who does not meet the requirements to be considered unmarried or considered not in a registered domestic partnership does not qualify for HOH filing status.

### **The qualifying person did not live with the taxpayer for more than half the year.**

The taxpayer's qualifying person must live with the taxpayer for more than half the year. If the qualifying person did not live with the taxpayer for more than half the year, the taxpayer does not qualify for the HOH filing status. More than half the year is 183 days; in a leap year, it is 184 days.

### **A taxpayer who is married or an RDP claimed a parent or relative other than a child as his or her qualifying person.**

If the taxpayer is legally married or an RDP as of the last day of the year and claims a parent or a relative other than a child as their qualifying person, the taxpayer cannot qualify for HOH filing status. By law, taxpayers who are legally married or an RDP as of the last day of the year can only claim their child as their qualifying person. The child can be a birth child, stepchild, adopted child, or an eligible foster child.

### **Taxpayer claimed a nonrelative as a qualifying person.**

Many denials are issued because the taxpayer is claiming a nonrelative as their qualifying person. Sometimes this is a cousin or the child of a friend or fiancée who is living in the home. By law, only certain relatives can qualify a taxpayer for HOH filing status. The list does not include cousins or unrelated children – except for children who meet the requirements to be an eligible foster child.

# HOH Case Studies

## Case # 1

The taxpayer was still legally married as of the last day of the year and he lived with his spouse from January 1 to November 12. The taxpayer's teenage daughter lived with him all year.

## Case #2

The taxpayer was divorced as of December 31 and did not live with her spouse during the tax year. The taxpayer's 8-year-old daughter lived with her for five months during the year. The daughter lived with the other parent during the rest of the year.

## Case #3

The taxpayer was legally married, but did not live with his spouse at any time during the tax year. The taxpayer's 12-year-old brother lived with him from January 1 to September 1.

## Case #4

The taxpayer is unmarried and not an RDP. The taxpayer paid all of the costs of maintaining his home where his cousin lived with him all year. The cousin was 17 years old and had \$2,500 in wages from a part-time job.

**Case #5**

The taxpayer was divorced 15 years ago. Her 32-year-old son, who was unmarried and not an RDP, lived with her the entire year and had gross income of \$2,000. The taxpayer provided more than half of her son's support and paid all of the costs of keeping up their home.

**Case #6**

The taxpayer was married and lived with her spouse and her 17-year-old daughter. Her spouse moved out on September 26. The taxpayer received her final divorce decree on November 16. She did not remarry or enter into a registered domestic partnership by the end of the tax year.

The taxpayer paid all of the costs of keeping up the home for herself and her daughter who lived with her from January 1 to December 15. The daughter had no income.

**Case #7**

The taxpayer was unmarried and not an RDP. The taxpayer claimed his girlfriend's 12-year-old son as his qualifying person. His girlfriend and her son lived with the taxpayer for the entire year. The taxpayer paid all of the costs of keeping up the home. The son had no income.

**Case #8**

The taxpayer was married as of the last day of the year, but did not live with her spouse during the tax year. The taxpayer's 22-year-old son lived with the taxpayer the entire year. Her son was not a full-time student and had gross income of \$8,500. The taxpayer paid all of the costs of keeping up the home.

## HOH Case Studies - Discussion

Note: Any requirements for HOH filing status that are not addressed in a particular case study are considered to be met.

### Case # 1

The taxpayer was still legally married as of the last day of the year and he lived with his spouse from January 1 to November 12. The taxpayer's teenage daughter lived with him all year.

### Analysis

The taxpayer lived with his spouse through November 12, which includes a portion of the last six months of the year.

To qualify for HOH filing status, the taxpayer must be either unmarried and not an RDP, or meet the requirements to be considered unmarried or considered not in a registered domestic partnership on the last day of the year.

For a taxpayer who was married or an RDP to be considered unmarried or considered not in a registered domestic partnership, the taxpayer must meet **all** the following requirements:

- The taxpayer filed a separate return from his or her spouse/RDP.
- The taxpayer did not live with his or her spouse/RDP at any time during the last six months of the year.
- The taxpayer paid more than half the cost of keeping up his or her home for the year.
- The taxpayer's home was the main home of his or her birth child, stepchild, adopted child, or eligible foster child for more than half the year.
- The taxpayer was entitled to claim a Dependent Exemption Credit for the child.

### The determination

The taxpayer does not qualify for HOH filing status because he did not meet the requirements to be considered unmarried. He was married as of the last day of the tax year and lived with his spouse from July 1 to November 12 which is a portion of the last six months of the year. One of the requirements to be considered unmarried is that the taxpayer cannot reside with his spouse for any portion of the last six months of the year.

### Case #2

The taxpayer was divorced as of December 31 and did not live with her spouse during the tax year. The taxpayer's 8-year-old daughter lived with her for five months during the year. The daughter lived with the other parent during the rest of the year.

### Analysis

The taxpayer's home was not the daughter's main home for more than half the year.

A taxpayer cannot qualify for HOH filing status unless:

- The taxpayer's home was the main home of his or her qualifying child or qualifying relative for more than half the year.

### **The determination**

The taxpayer does not qualify for the HOH filing status because her daughter lived with her for only five months during the year, which is less than half the year.

### **Case #3**

The taxpayer was legally married, but did not live with his spouse at any time during the tax year. The taxpayer's 12-year-old brother lived with him from January 1 to September 1.

### **Analysis**

The taxpayer is married and does not meet the requirements to be considered unmarried. A brother is not a qualifying person for a taxpayer who is married or an RDP.

For a married taxpayer to be considered unmarried or for an RDP to be considered not in a registered domestic partnership, the taxpayer must meet **all** the following requirements:

- The taxpayer filed a separate return from his or her spouse/RDP.
- The taxpayer did not live with his or her spouse/RDP at any time during the last six months of the year.
- The taxpayer paid more than half the cost of keeping up his or her home for the year.
- The taxpayer's home was the main home of his or her birth child, stepchild, adopted child, or eligible foster child for more than half the year.
- The taxpayer was entitled to claim a Dependent Exemption Credit for the child.

### **The determination**

The taxpayer does not qualify for the HOH filing status because he was married and did not meet one of the requirements to be considered unmarried or considered not in a registered domestic partnership (he can only claim his child as his qualifying person). He cannot claim his brother.

### **Case #4**

The taxpayer is unmarried and not an RDP. The taxpayer paid all of the costs of maintaining his home where his cousin lived with him all year. The cousin was 17 years old and had \$2,500 in wages from a part-time job.

### **Analysis**

The taxpayer's cousin is not one of the relatives who by law can qualify a taxpayer for HOH filing status.

### **The determination**

The taxpayer does not qualify for the HOH filing status because his cousin is not one of the relatives who by law can qualify him for the status.

### **Case #5**

The taxpayer was divorced 15 years ago. Her 32-year-old son, who was unmarried and not an RDP, lived with her the entire year, and had gross income of \$2,000. The taxpayer provided more than half of her son's support and paid all of the costs of keeping up their home.

## Analysis

- The taxpayer was unmarried and not an RDP as of December 31.
- She paid more than half the cost of keeping up her home.
- Her home was the main home for her and a qualifying relative for more than half the year.
- Her son did not meet the age test to be a qualifying child, but he met the requirements to be a qualifying relative because he was her child, his gross income was less than the federal exemption amount, and she provided more than half of his support.
- She was entitled to a dependent exemption credit for her qualifying relative because he lived with her all year and was therefore a resident of the U.S., so he met the citizenship test. He was also unmarried and not an RDP, so the joint return test does not apply.

Note: For a detailed explanation of the requirements that must be met to be a qualifying child or qualifying relative, and the additional requirements that must be met to be entitled to a dependent exemption credit for a qualifying child or qualifying relative, refer to the table under Who is a Qualifying Person on page 4 and Dependent Exemption Credit on page 5.

## The determination

The taxpayer qualifies for the HOH filing status because, although her son was too old to be her qualifying child, he met the requirements to be her qualifying relative.

## Case #6

The taxpayer was married and lived with her spouse and her 17-year-old daughter. Her spouse moved out on September 26. The taxpayer received her final divorce decree on November 16. She did not remarry or enter into a registered domestic partnership by the end of the tax year.

The taxpayer paid all of the costs of keeping up the home for herself and her daughter who lived with her from January 1 to December 15. The daughter had no income.

## Analysis

Although the taxpayer lived with her spouse during the last six months of the year, she qualified for the HOH filing status. She was unmarried and not an RDP by the end of the year and did not need to meet the requirements to be considered unmarried or considered not in a registered domestic partnership. She did not need to meet the requirement that she must live apart from her spouse/RDP (ex-spouse/ex-RDP) at all times during the last six months of the year.

- The taxpayer was unmarried and not an RDP as of December 31.
- She paid more than half the cost of keeping up her home.
- Her home was the main home for her qualifying child for more than half the year.

To determine how many days the taxpayer's home was the main home of her qualifying child, follow the guidelines below.

For taxpayers who are legally married or an RDP at any time during the year, but who receive a decree of divorce, legal separation, or termination of registered domestic partnership by December 31:

- Take *half* the days when the taxpayer and the child lived together in the taxpayer's home while the taxpayer's spouse/RDP (ex-spouse/ex-RDP) was also living there.



January 1 to September 26 is 269 days; divided by 2 is 134.5 days.

$$\frac{269}{2} = 134.5 \text{ days}$$

- Then, add all the days the taxpayer and the child lived together in the taxpayer's home without the taxpayer's spouse/RDP (ex-spouse/ex-RDP).

September 27 to December 15 = 80 days.

80 days

The taxpayer's qualifying child lived with her for 214.5 days (134.5 days + 80 days).

### **The determination**

The taxpayer qualifies for HOH filing status because, using the *Tierney* rule (see HOH Legal Issues on page 5), the child is considered to have lived with her for more than half the year.

### **Case #7**

The taxpayer was unmarried and not an RDP. The taxpayer claimed his girlfriend's 12-year-old son as his qualifying person. His girlfriend and her son lived with the taxpayer for the entire year. The taxpayer paid all of the costs of keeping up the home. The son had no income.

### **Analysis**

The girlfriend's son is not one of the relatives who by law can qualify the taxpayer for HOH filing status.

He is not the taxpayer's child by birth or adoption, and he is not the taxpayer's stepchild or eligible foster child.

To have a stepchild, the taxpayer must have at some time been married to, or in a registered domestic partnership with, the child's parent.

To be an eligible foster child, the child must be placed with the taxpayer by an authorized placement agency or by a judgment, decree, or other order of a court of competent jurisdiction.

Although the taxpayer does not qualify for the HOH filing status, he may be entitled to a Dependent Exemption Credit for his girlfriend and her child if all of the Dependent Exemption Credit tests are met.

See FTB Pub 1540, *California Head of Household Filing Status*, for the requirements to claim a Dependent Exemption Credit.

### **The determination**

The taxpayer does not qualify for the HOH filing status because his girlfriend's child is not one of the relatives who by law can qualify him for the status. His girlfriend's son is not related to him and does not qualify as his eligible foster child. Therefore, the child cannot be his qualifying person.

### **Case #8**

The taxpayer was married as of the last day of the year, but did not live with her spouse during the tax year. The taxpayer's 22-year-old son lived with the taxpayer the entire year. Her son was not a full-time student and had gross income of \$8,500. The taxpayer paid all of the costs of keeping up the home.

**Analysis**

The taxpayer's son does not meet the requirements to be a qualifying child or qualifying relative.

To be a qualifying child, the taxpayer's son must meet the age test. He did not meet the age test because he was over the age of 18 and, although he was under the age of 24, he was not a full-time student.

To be a qualifying relative, her son must meet the gross income test. Her son did not meet the gross income test because his income was more than the federal exemption amount.

**The determination**

The taxpayer does not qualify for the HOH filing status because her son did not meet the requirements to be either a qualifying child or a qualifying relative.

# How to Get Additional Information About HOH

## HOH Publications

**FTB Pub.1540, *California Head of Household Filing Status***, is our detailed publication about the HOH filing status. This comprehensive publication provides:

- General rules for using the HOH filing status.
- Self-tests to determine if the taxpayer qualifies to use the HOH filing status.
- Legal definitions.
- Information on how to obtain assistance by telephone or online.

**FTB Pub.1540Spanish, *California Información Sobre el Estado Civil Cabeza de Familia***, is our Spanish version of FTB Pub. 1540.

Each publication is available at many of our field offices and at **ftb.ca.gov**.

To order a copy of the 1540 or 1540Spanish:

- Call 800.338.0505.
- Select Option 1 (for personal income tax).
- Select Option 5 (for personal income tax and publications).
- Follow voice prompts (in order for us to mail you the FTB 1540).
- Enter Code 934 (when prompted).

## How to Contact Us

### HOH Information on the Franchise Tax Board Website

HOH filing status information is available at **ftb.ca.gov** and includes:

- Self-tests to determine if the taxpayer qualifies.
- Qualification requirements.
- Information on the audit process.
- Common reasons why you may not qualify.
- Information for electronic HOH filers.
- Our Web Response Application (for taxpayers who receive an HOH audit letter).
- Forms and publications.
- Frequently asked questions.
- Legal definitions.
- Practitioner's Corner.

## **HOH Program Telephone Assistance**

We offer taxpayers automated telephone assistance to complete the audit questionnaire. The program is available to the caller in either English or Spanish.

We provide information on the following topics:

- Completing the audit questionnaire.
- Self-tests to determine if the taxpayer qualifies to use the HOH filing status.
- Head of Household Acceptance Letter.
- How to order FTB Pub. 1540, *California Head of Household Filing Status* information.

To access the 24-hour telephone assistance program, call:

800.555.4005 from within the United States

Individuals without a touch-tone telephone can call our Taxpayer Services Center:

800.852.5711 from within the United States

916.845.6500 from outside the United States (not toll-free)

## **Contact Us by Mail**

STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
PO BOX 1998  
RANCHO CORDOVA CA 95741-1998

## **Franchise Tax Board Audit Program Contacts**

Rick Mitchell, Program Manager	916.845.3421
Alex Davoodi, Section Manager	916.845.6728
Ruth Wagner, Audit Group Manager	916.845.5378

## **Practitioner Hotline**

Contact our practitioner hotline for head of household or other California tax questions at 916.845.7057.

## **Internal Revenue Service (IRS) Head of Household Information**

Download federal Publication 17 and other federal forms and publications from the IRS at **irs.gov**.

To contact the IRS by telephone, call:

800.829.1040 IRS customer service

800.829.3676 IRS publications and forms

## **Assistance for Persons with Disabilities**

We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments, please call TTY/TDD 800.822.6268.

## Notes

